

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

~~Town~~

~~Village~~

ofMoriah.....
Local Law No.3..... of the year 19 ..78....

A local lawknown as the Town of Moriah Development Permit Law for Flood
Prone Areas (Insert title)

Be it enacted by theTown Board..... of the
(Name of Legislative Body)

~~County~~

~~City~~

~~Town~~

~~Village~~

ofMoriah..... as follows:

DEVELOPMENT PERMIT LAW FOR FLOOD PRONE AREAS

ARTICLE 1 - INTRODUCTORY PROVISIONS

Section 1.010. Title. This local law shall be known as the Town of Moriah Development Permit Law for Flood Prone Areas.

Section 1.020. Findings and Purposes. It is hereby found and declared that unmanaged land use, alteration of topography, excessive filling, channel encroachment and other acts affect the natural discharge of water through floodplains, and constitute a threat to the health, safety and welfare of the inhabitants of the Town, and to the economic vitality of the community. The purpose of this local law is to protect the health, safety, and welfare of the inhabitants of the Town from hazards due to periodic flooding. This shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control projects.

ARTICLE 2 - GENERAL PROVISIONS

Section 2.010. Definitions as Used in this Article.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of streams, rivers, or other inland areas of water or (b) the unusual and rapid accumulation or run-off of surface water.

"Flood protection elevation" means an elevation one (1) foot higher than the 100-year flood elevation.

"Full value" means the actual, or market value of a structure. For purposes of this local law, there shall be a rebuttable presumption that full value is the total assessed valuation of the subject parcel less the assessed valuation of the land exclusive of any improvements, based upon the current assessment roll of the town, divided by the state equalization rate established for the said assessment roll.

"Project" means any alteration of topography, dredging, filling, channel encroachment, the construction of any structure, any improvement, addition or expansion to any pre-existing structure, or any other activity the natural consequence of which may be to affect the discharge of water through a flood-plain. "Project" does not mean routine repairs and maintenance to a pre-existing structure.

"Structure" means any object constructed, installed or placed on land to facilitate land use and development such as buildings, sheds, docks, boat-houses or other waterfront structures, single family dwellings, mobile homes, highway structures, signs, tanks, fences and poles and any fixtures, additions and alterations thereto.

"Subdivision" means the division of any parcel of land into two (2) or more lots, parcels or sites for the purpose of sale, lease, license or any form of separate ownership or occupancy.

Section 2.020. Establishment and Boundaries of District. There is hereby established a Special Flood Hazard Area District, which shall coincide with the special flood hazard areas delineated as Zone A on the Flood Hazard Area Map for the Town prepared by the Federal Insurance Administration, dated Nov. 22, 1974

Section 2.030. Flood Hazard Area Map Amendment. If the Flood Hazard Area Map for the Town prepared by the Federal Insurance Administration dated Nov. 22, 1974 is amended by the Federal Insurance Administrator, the Town Board shall publish notice of receipt of such amended map in the official paper of the Town and shall post notice of receipt thereof together with a copy of the amended map in the office of the Town Clerk within ten (10) days of receipt thereof. The Town Board on its own initiative may (and upon written request of any landowner of the Town, received within ten (10) days of the date of publication of notice of receipt of the amended map, shall) hold a public hearing upon the amended map, publishing notice of such public hearing in the official newspaper of the Town and posting notice thereof in the Office of the Town Clerk not later than thirty (30) days after receipt by the Town of the amended map. If no public hearing is duly held, then effective the thirty-first day following receipt thereof by the Town, the amended map shall be deemed substituted for the Flood Hazard Area Map dated November 22, 1974, referred to in Section 2.020. If a public hearing is duly held then not later than ten (10) days following the close of such hearing, the Town Board shall determine whether or not to amend or repeal this local law. Any such action taken by the Town Board shall be effective according to its terms, and if the Town Board takes no such action within the prescribed period, effective on the eleventh day following the close of the hearing, the amended map shall be deemed substituted for the Flood Hazard Area Map dated Nov. 22, 1974 referred to in Section 2.020.

Section 2.040. District Regulations. Within the Special Flood Hazard Area District, every project (other than an improvement, addition or expansion to a pre-existing structure or combination of improvements, additions or expansions to a pre-existing structure, the cumulative cost of which is less than fifty percent of the full value of such pre-existing structure) and every subdivision shall be subject to the following standards:

- a) Sites must be reasonably safe from flooding;

- (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
 - (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - (iv) additions to the mobile home be similarly anchored.
- d) Construction materials and utility equipment shall be used that are resistant to flood damage;
 - e) Construction methods and practices shall be used that will minimize flood damage;
 - f) New or replacement water supply systems and/or sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
 - g) On-site waste disposal systems shall be located so as to avoid impairment of them or combination from them during flooding;
 - h) Subdivisions must be consistent with the need to minimize flood damage;
 - i) Public utilities and facilities installed for subdivisions such as sewer, gas, electrical, and water systems, must be located and constructed to minimize or eliminate flood damage;
 - j) Adequate drainage must be provided for subdivisions so as to reduce exposure to flood hazards;
 - k) Projects and subdivisions shall be analyzed as to their effect on the flood carrying capacity of land in the flood plain subject to a one percent or greater chance of flooding in any given year.
 - l) When one hundred year flood elevation data is available from the Federal Insurance Administrator, other Federal or State Agencies or consulting services:
 - (i) residential structures shall have the lowest floor (including basements, unless otherwise excepted by variance) elevated to or above the flood protection elevation; basements excepted by variance shall be floodproofed to or above the flood protection elevation;
 - (ii) non-residential structures shall have the lowest floor (including basement) elevated to or above the flood protection elevation or, together with attendant utility and sanitary facilities, shall be floodproofed to or above the flood protection elevation in accordance with the standards for completely floodproofed structures contained within sections 210.2.1 FPI or 210.2.2 FP2 of the U. S. Army Corps of Engineers Publication "Flood-Proofing Regulations", June 1972, GPO;
 - (iii) where floodproofing is utilized for basements below the flood protection elevation of residential structures or for non-residential structures below the flood protection elevation, a registered professional engineer or architect shall certify that the floodproofing measures are reasonably adequate to withstand the flood depths, pressures, velocities, impact and uplift forces associated with the 100-year flood; the Project Review Officer shall keep and record such certificates.

- a) The name and address of the applicant and of the owner of the property, if different from the applicant.
- b) Description of the proposed activity, including determination of the value of the proposed construction or other improvement. Such value shall include both the value of the materials and the value of the labor required for the construction or improvement.
- c) A sketch showing the location of the proposed construction or other improvement relative to any nearby man-made or prominent natural features.
- d) Application fee, if established by Town Board resolution.

Section 3.030. Requirements for Issuance of a Permit. Upon receipt of the application, the Project Review Officer shall thereupon review the application and shall determine if the permit requirements as set forth below have been satisfied.

- a) Review the application and determine the applicability of the standards contained in Section 2.040 hereof. If such standards are applicable, the Project Review Officer shall only issue a Flood Hazard Area Development Permit after determining that such project or subdivision, as proposed, meets such standards.
- b) Determine if the applicant has obtained all necessary permits from those federal, state or local government agencies from which prior approval is required.
- c) Determine if proposed development adversely affects the flood carrying capacity of the land in the flood plain subject to a one percent or greater chance of flooding in any given year. For the purposes of this local law, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas. If it is determined that there is an adverse effect, than technical justification (i.e., a registered professional engineer) for the proposed development shall be required.

The Project Review Officer shall only issue a Flood Hazard Area Development Permit after determining that the foregoing requirements have been met. If the Project Review Officer determines that the project or subdivision does not meet such requirements, he shall deny the application in writing giving the reasons therefor.

Section 3.040. Appeals.

- a) Any project or subdivision sponsor may appeal to the Town Board (i) the determination of the Project Review Officer as to the location of a Special Flood Hazard Area District boundary; (ii) the determination of the Project Review Officer that a proposed project or subdivision does not meet the standards of Section 2.040 of this local law.
- b) An appeal to the Town Board pursuant to this section shall be made on a form approved by the Town Board and provided by the Project Review Officer. The appeal form shall contain a written statement of the grounds asserted by the project or subdivision sponsor for reversing the determination of the Project Review Officer. The Town Board shall consider such an appeal at a public hearing. Notice of such hearing shall be given by publication in the official newspaper of the Town at least five days

- b) Application for a variance shall be made on a form approved by the Town Board and provided by the Project Review Officer. The Town Board may grant a variance from the strict application of the provisions of this law as follows: (i) in all circumstances, a variance may only be issued upon showing a good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship to the applicant; a determination that the variance would not result in increased flood heights, additional threat to public safety, extraordinary public expense, or would create nuisance, cause fraud or victimization of the public, or conflict with existing laws or ordinances; (ii) there shall be a rebuttable presumption that the preceding requirements for granting a variance have been met with respect to an application for a variance for a new structure to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing contiguous structures constructed below the flood protection elevation, as well as an application for a variance for the restoration or reconstruction of a structure which is listed on the National Register of Historic Places or on a state inventory of historic places.
- c) As a condition of the granting of a variance from the provisions of this Article, the applicant shall execute and record in the Essex County Clerk's Office a declaration that the property in question is located in a flood-prone area. Such declaration shall state the number of feet that the lowest non-floodproofed floor of the proposed structure is below the one hundred year flood level and shall acknowledge that actuarial flood insurance rates increase as the first floor elevation decreases.
- d) Upon the granting by the Town Board of a variance from the provisions of this Article, the Project Review Officer shall notify the Federal Insurance Administrator and the State Department of Environmental Conservation thereof.

ARTICLE 4 - ADMINISTRATION

Section 4.010. The Project Review Officer's Duties.

- a) The Project Review Officer shall provide application forms pursuant to Sections 3.020, 3.040, and 3.050.
- b) The Project Review Officer shall maintain records of all applications and the information contained therein; records of determinations made in respect to applications; including in the case of Flood Hazard Area Development permits issued for projects involving improvements or cumulative improvements constituting less than 50% of Full Value, the value of the proposed improvement; and records of appeals or violations of this local law and the outcome of actions taken thereunder.
- c) In connection with any project permit issued for a new structure or substantial improvement within the Special Flood Hazard Area District, the Project Review Officer shall note and record the elevation (in relation to mean sea level) of the lowest floor (including basement) of the structure and, where the lowest floor is below grade on one or more sides, the elevation of the floor immediately above.

Section 4.020. Violations.

- a) Violations of this local law shall be subject to the provisions of applicable law. Upon determination by the Project Review Officer that a violation exists, written notice shall be sent to the last known owner of the property. Such notice shall state the specific provision in violation and that action is to be taken by said

Section 4.030. Amendment. The Town Board may from time to time, on its own motion or on petition by the public or the Planning Board after proper adherence to the procedure for the amendment of a local law, amend, supplement, or change the regulations herein established.

Section 4.040. Validity. The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

Section 4.050. Interpretation.

- a) In their interpretation and application, the provisions of this local law shall be held to be minimum requirements adopted for the promotion of the public health, safety, or general welfare.
- b) Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, laws or ordinances, the more restrictive, or that imposing the highest standard shall govern.

Section 4.060. Warning and Disclaimer of Liability. The degree of flood protection required by this local law is considered reasonable for regulatory purposes based on all available knowledge of past floods. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This local law does not imply that areas outside the delineated flood hazard areas or that land uses permitted within such areas will be free from flooding or flood damage. This local law shall not create liability on the part of the Town of Moriah or any officer or employee thereof, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

Section 4.070. When Effective. This local law shall take effect immediately.

This local law was duly adopted.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. ...3.....of 19...78
County
of the ~~City~~ ofMoriah..... was duly passed by theTown Board.....
Town
Village
(Name of Legislative Body)
onJune 13,..... 19...78 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer, * or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the
Town
Village
(Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the
Town
Village
(Name of Legislative Body)
on 19..... not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer *
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive general
thereon at the special election held on 19....., in accordance with the appli-
annual
cable provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
County
of the City of was duly passed by the on
Town
Village
(Name of Legislative Body)
..... 19..... not disapproved
and was approved by the on
repassed after disapproval Elective Chief Executive Officer *
..... 19..... Such local law being subject to a permissive referendum and no
valid petition requesting such referendum having been filed, said local law was deemed duly adopted on
..... 19....., in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on 19 became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as Local Law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

☒ I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.

Mae Williams

Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body

Date: June 21, 1978

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF ESSEX

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Wm J. [Signature]
Signature

Town Attorney